


This page  
was intentionally  
left blank



# Insurance Reforms Toughen Fraud Penalties and Give OIFP New Tools





# Insurance Reforms Toughen Fraud Penalties and Give OIFP New Tools

by Norma R. Evans

To send a clear and unequivocal message to the public that, if you commit insurance fraud in New Jersey you will be dealt with harshly, the New Jersey Governor and Legislature enacted a package of anti-fraud reforms in 2003 which address the need to enhance the State's ability to detect insurance fraud and severely punish those who commit insurance fraud.

By making "Insurance Fraud" a specific crime, New Jersey will be able to deal an even heavier blow to cheats who perpetrate insurance scams throughout the State. As a result of the new law, the Office of the Insurance Fraud Prosecutor (OIFP) has been empowered with provisions which allow for the imposition of far more stringent penalties to be levied against those who are convicted of committing fraud as it relates to virtually every aspect of insurance coverage.

Perhaps the most notable aspect of this reform is that the new crime of

"Insurance Fraud" is now embedded in the New Jersey Criminal Code. Much like its counterpart, the "Health Care Claims Fraud" statute enacted in 1998, the crime of Insurance Fraud allows prosecutors to more aggressively confront specific conduct relating to insurance transactions.

By virtue of the enactment of the Health Care Claims Fraud statute, prosecutors were able to focus specifically on health care providers and others who sought to benefit from a seemingly endless variety of schemes to submit fraudulent claims for payment to insurance carriers and similar entities. That statute specifically delineated different penalties for health care providers and others who bilked our system of health care insurance. Although the Health Care Claims Fraud Act enabled prosecutors to severely punish both provider and non-provider offenders, it made the punishment for providers such as doctors and chiropractors even more se-



# Insurance Reforms Toughen Fraud Penalties and Give OIFP New Tools



*New Jersey Governor James E. McGreevey signs one of the toughest insurance fraud laws in the nation.*

vere, citing the need to maintain the public's trust as essential to the preservation of the integrity of the "safety net" provided by health insurance.

Likewise, recognizing a strong need to directly and comprehensively criminalize all types of schemes to commit insurance fraud, New Jersey created a new crime of "Insurance Fraud" to toughen and streamline the investigation and prosecution of all persons or entities that knowingly commit, or assist or conspire with others to commit fraud against insurance companies and other entities providing insurance-like benefits. More broad in its coverage than that of the prior health care fraud legislation, the new crime of "Insurance Fraud" makes it illegal to

make false representations with respect to any claim, application, payment or document used in any insurance or premium finance transaction, not merely those relating to claims for health care benefits.

Prior to the enactment of this legislative package, prosecutors were severely hamstrung in their ability to build major cases against those engaged in committing most types of insurance fraud. Unless the illicit conduct fell within the scope of crimes defined as "Health Care Claims Fraud," prosecutors were often left with no alternative but to prosecute the fraud as a theft by deception, which would require the building of a case based upon dozens, if not hundreds of fraudulent transac-

tions, to establish an aggregate theft in excess of \$75,000, before a sentence requiring incarceration could be imposed. Preparing such a complex case would often consume years of investigative work, allowing perpetrators to continue to fleece insurance carriers while investigations continued on track.

Now, by creating the crime of "Insurance Fraud," the Legislature has given prosecutors a tremendous advantage in fighting the war against insurance cheats. A wrongdoer need only commit five acts of fraud with an aggregate theft amount of \$1,000 to be subject to a sentence of five to ten years in the New Jersey State prison system. The five acts, as required under the statute, can be found in a single document, as each and every misrepresentation is considered an additional, separate and distinct offense for purposes of the crime of "Insurance Fraud." Previously, a conviction for such conduct would have likely resulted in either probation or admission into the Pre-Trial Intervention Program (PTI), with virtually no prospect for incarceration. The potential for such significant penalties under the new law will undoubtedly have a strong deterrent effect.

The new insurance fraud law also, for the first time, expressly criminalizes misrepresentations made in applications submitted to obtain various types of insurance. Such conduct, known as "application fraud" or "premium fraud," can now potentially result in a prison sentence as well.

In addition to the imposition of severe criminal penalties, individuals who hold licenses or certificates are now required to forfeit that license or certificate and to be permanently barred from the practice of their profession or occupation upon a second degree conviction of Insurance or Health Care Claims Fraud. This new law has, indeed, elevated the stakes for those licensed professionals who are driven

by greed to cheat the system.

The new law also offers added incentives to encourage members of the public to participate in the fight against fraud by establishing, within OIFP, the "Insurance Fraud Detection Program." Significant financial incentives have been provided to encourage the public to come forward and report insurance fraud. By calling OIFP's 24 hour toll-free hotline or visiting OIFP's Web site at

## SENATE COMMITTEE SUBSTITUTE FOR SENATE, No. 63

### STATE OF NEW JERSEY 210th LEGISLATURE

ADOPTED MARCH 17, 2003

Sponsored by:

Senator RONALD L. RICE

District 28 (Essex)

Assemblyman LOUIS D. GREENWALD

District 6 (Camden)

Assemblyman CHRISTOPHER "KIP" BATEMAN

District 16 (Morris and Somerset)

Co-Sponsored by:

Assemblywoman Cruz-Perez, Assemblymen Guear, Ahearn, Cryan, Edwards, Biondi, R. Smith, Conners, Merkt, Wolfe, Pennacchio, Barnes, Diegnan, Eagler, Assemblywoman Greenstein, Assemblyman McKeon and Assemblywoman Stender

SYNOPSIS

Makes various changes to the automobile insurance laws; consolidates administrative functions relative to automobile insurance; provides for insurance fraud reforms.

CURRENT VERSION OF TEXT

Substitute as adopted by the Senate Commerce Committee.



# Insurance Reforms Toughen Fraud Penalties and Give OIFP New Tools

[www.njInsuranceFraud.org](http://www.njInsuranceFraud.org), a person who provides information in accordance with certain guidelines, can now receive as much as \$25,000 when that person has a reasonable suspicion or knowledge that someone is committing insurance fraud. Consequently, everyone can play a role in insuring that law-abiding citizens do not pay, through their insurance rates, to support the ill-gotten gains of insurance cheats.

The insurance fraud reform package also includes provisions which are designed to discourage the use of counterfeit insurance identification cards and give teeth to the requirement that motorists possess a valid motor vehicle insurance identification card. To curtail the widespread possession and use of fraudulent insurance identification cards, the legislature specifically mandated that the Commissioner of the Department of Banking and Insurance promulgate rules and regulations addressing the issuance, design and content of insurance identification cards. The regulations under this provision of the statute will require that insurance identification cards are designed so that counterfeit or fraudulent cards are readily detectable.

Further, under this legislation, the failure to possess a valid insurance identification card will now result in even harsher penalties than before. Not only will such a violation result in

the issuance of a summons, but now, under certain circumstances, a failure to have one's vehicle properly insured may result in its impoundment, and even forfeiture to the State.

New Jersey is, indeed, serious about its war on fraud. While speaking at the Sixth Annual New Jersey Insurance Fraud Summit in October 2003, Governor James E. McGreevey stated that, "If you engage in insurance fraud, the State will take aggressive measures." By signing one of the toughest laws against insurance fraud in the nation, the Governor has underscored the leading role assumed by OIFP as a model for the nation in the aggressive pursuit of insurance fraud and the punishment of those who commit it.

---

**Norma R. Evans** has been with New Jersey's Division of Criminal Justice for five years and currently serves as a Supervising Deputy Attorney General in charge of OIFP's Health and Life Section. Prior to her appointment with the Division, she was an Assistant Prosecutor with the Camden County Prosecutor's Office for seven years.

